

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Pay Telephone) CC Docket No. 96-128
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

REPLY COMMENTS OF SPRINT ON ANI DIGIT WAIVER REQUESTS

Sprint Corporation hereby replies to the comments of other parties with respect to provision of payphone-specific ANI digits.

Payphones In Non-Equal Access Areas. There is little dispute that a per-phone compensation mechanism should be employed for payphones in non-equal access areas. The only issue relating to such phones that merits comment is APCC's contention (n.20 at 11) that per-phone compensation for such payphones should be based on whatever formula the Commission ultimately adopts for interim compensation. Sprint objects to any per-phone compensation for payphones in non-equal access areas unless the amount of compensation per phone reflects the results of a traffic study, performed on a statistically valid sample of payphones in such areas, to determine the average number of compensable calls such phones handle. Given the fact that non-equal access areas tend to be very rural in nature, there is no reason simply to assume that payphones in these areas generate the same volume of compensable calls that the "average" payphone generates. APCC's argument (id.) that its proposal is consistent with the treatment of such

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payphones for purpose of access code dial-around compensation in CC Docket No. 91-35 when AT&T was allowed to begin paying on a per-call basis in equal access areas, does not justify such action here. The access code compensation applied to a much narrower category of calls and to a much smaller number of payphones,¹ and thus was simply not a large enough sum to quibble about.² The assent of AT&T and Sprint to compensate non-equal-access payphones at the rate applicable to all other payphones in that instance cannot justify excessive compensation to non-equal-access payphones under the far more costly compensation program here at issue.

OLNS Is Unacceptable. Both U S West and TDS explicitly seek authority to employ OLNS rather than Flex ANI, and the ability to choose among these solutions is also implicit in the comments of the RBOC/GTE/SNET Coalition and NECA. However, as Sprint and other IXC's explain in their comments, OLNS is inconsistent with the requirement in the Order on Reconsideration that payphone-specific ANI digits be provided. The OLNS solution would allow continued use of the general restricted line indicator ("07") that was explicitly found unacceptable in ¶64 of the Order on Reconsideration,³ and would necessitate a LIDB query to determine whether the "07" call is coming from a payphone or some other type of phone. The IXC comments⁴

¹ Subscriber 800 calls and prepaid card calls were excluded, and LEC-owned payphones were not eligible for such compensation.

² The compensation obligations of Sprint (which, like AT&T, was granted a waiver to pay on a per-call basis in equal access areas) for non-equal-access payphones was well under \$100,000 per year.

³ 11 FCC Rcd 21233, 21265-66 (1996).

⁴ See e.g., Frontier at 6; MCI at 4, 6-9; and WorldCom at 2-4, 7-8.

demonstrate that the IXC's have relied in good faith on the requirements on the Order on Reconsideration,⁵ and that any attempt at this point to allow the LIDB alternative would impose millions of dollars of increased costs on the IXC's and would be fundamentally inconsistent with the Commission's contemplation that IXC's be allowed to block and surcharge payphone-originated calls on a real time basis.⁶ The proponents of OLNS present no grounds for why they, unlike the majority of the LEC industry, cannot implement Flex ANI, and make no showing why the combined 16 month period afforded by the Order on Reconsideration and the Bureau's October 7 waiver order has not been sufficient for them to implement the Flex ANI solution.

TDS (at 5) argues that the Commission could not have intended to require LECs to implement Flex ANI because the Commission failed to guarantee cost recovery to the LECs for such implementation. TDS overlooks the fact that ¶64 of the Order on Reconsideration allows LECs to offer ANI digits to PSPs as a tariffed offering, and thus

⁵ APCC casts aspersions at the IXC's for expecting the LECs to provide what the Commission's Order on Reconsideration required – payphone-specific ANI digits – referring to the IXC's "intransigence" (at 12) and the IXC's "unilateral demands" (at 13). APCC's attack on the IXC's is surprising, since APCC itself had previously and repeatedly pressed the Commission to require the RBOCs, as part of their comparably efficient interconnection ("CEI") plans, to provide specific ANI digits rather than to attempt to rely on OLNS. See e.g., Consolidated Application of the American Public Communications Council for Review of the CEI Orders, May 19, 1997, at 16-20.

⁶ APCC claims that Sprint, among others, has the ability to surcharge "07" calls, citing a consumer information sheet provided by Sprint that was issued in advance of the Commission's October 9 Order, establishing the per-call compensation amount, and that merely alluded to the fact that "Sprint may implement a payphone connection fee for payphone originated calls." In fact, the tariff Sprint filed to impose such a fee on its business and residential customers (Transmittal No. 300, October 10, 1997) states that the per-call surcharge applies only to "calls which Sprint can identify as payphone-originated calls."

LECs can look to the PSPs to recover their costs. In that regard, Sprint opposes the suggestion of APCC (at 19) that the cost of Flex ANI should be borne by IXC's as well as PSPs. The fact that no IXC ordered Flex ANI prior to the Commission's payphone decisions is a strong indication that IXC's need Flex ANI for no purpose other than administering payphone compensation. Moreover, the industry cost of providing Flex ANI from equal access end offices is now estimated by USTA, in its October 24, 1997 ex parte letter, to be in the range of \$61 million, one-tenth of the amount the Commission had estimated and allowed for in its October 9 Order setting the per-call compensation rate.⁷

The Waiver Period. None of the parties seeking waiver for a period longer than the five-month period already granted by the Bureau presents a persuasive, detailed factual case that more time is needed. The LECs have already been afforded sixteen months by the Order on Reconsideration and the Bureau's October 7 Order, and the fact that several major LECs, including Ameritech, Bell Atlantic and BellSouth, can be ready by March 9 is strong evidence that the others can be as well. If they are not, then the only fair solution is to let the waiver expire on that date, and with it, the IXC's' duty to pay compensation on payphones that generate the "07" digits. The PSPs would then be free to seek recovery from non-compliant LECs for any damages they suffer after that date.

⁷ Sprint would hope and expect the Commission promptly to adjust, sua sponte, its per call rate downward by .9 cents to correct for its earlier reliance on erroneous data. Such sua sponte action is appropriate to demonstrate the Commission's integrity and fairness to IXC's in this proceeding, particularly in view of the fact that other sua sponte action in this proceeding, i.e., the Bureau's sua sponte October 7 Waiver Order, as Sprint explained in its comments (at 2-3), substantially increased the compensation burdens on IXC's.

In that regard, Sprint cannot leave unanswered the claim of the RBOC/GTE/SNET Coalition (at 6) that only a minority of phones do not generate the payphone-specific ANI digits today. What they fail to point out is that this minority of phones largely consists of private payphones. In other words, most LECs today are providing payphone-specific ANI digits for their own phones, but not for those of their competitors. Sprint does not disagree with the RBOC Coalition when it argues that it is inequitable to deny per-call compensation to PSPs whose phones fail to generate the proper ANI digits. The question, however, is who should be liable to the PSPs: the IXC's, who have acted in good faith reliance on the clear provisions of the Order on Reconsideration, or the LECs that seek far more time than they reasonably need to comply with that order. And, as Sprint pointed out in its initial comments, shifting this liability to where it belongs – the LECs – after March 9 is perhaps the best incentive for them promptly to implement Flex ANI.

Ameritech and Southwestern Bell/Pacific Bell/Nevada Bell (hereinafter, "SBC") seek waivers of indefinite duration for certain call types. Sprint believes it is procedurally improper for these parties to request, in their comments, waiver authority beyond that contemplated by the petitions that were placed on public notice. If these parties wish such additional waivers, they should file separate petitions for waiver, and those petitions should be placed on public notice for full opportunity for comment and reply comment before Commission action is taken. However, if the Commission is disposed to act on these requests without separate notice and opportunity for comment, it should not at the same time require IXCs to make up the difference to PSPs through some sort of partial per-phone compensation, nor should it require IXCs to attempt to track calls on which no payphone-specific ANI digits are provided. According to SBC (at

Exhibit A) the waivers in question would cover a very small percentage of otherwise compensable calls, but if PSPs can show that calls made from their phones are affected by these waivers, the LECs in question should be liable to the PSPs for any lost compensation.

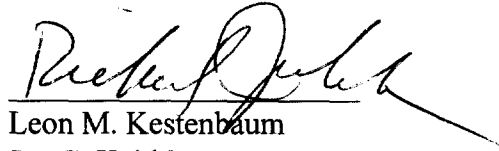
Compensation Method During Waiver Period. In its initial comments, Sprint expressed its support (at 4-5) for AT&T's request that during the waiver period, IXC's be allowed to pay compensation to PSPs whose phones do not generate payphone-specific ANI digits on a per-phone basis instead of per-call, and that the LECs should be required to furnish both the Commission and IXC's a schedule of end office conversions to Flex ANI. The RBOC/GTE/SNET Coalition resists having to provide such a schedule, claiming (at 9) that it would be "infeasible and inefficient" for the LECs to do so and that the LECs must "receive specific orders" from IXC's. Sprint fails to see why merely providing a schedule of work – a schedule that must be known to each LEC – is overly burdensome or why orders from IXC's for each end office are needed, since all IXC's are looking to Flex ANI as the means of receiving payphone-specific ANI digits from the LECs.

APCC argues (at 25-28) that any flat-rate waiver of the sort requested by AT&T should be conditioned on monthly payments, should reflect an assumed 151 compensable calls per-month based on APCC call volume data, and should be distributed, at least preliminarily, only among those carriers with more than \$100 million per year in toll revenues. There is no basis for any of these three elements. The Commission has already built into its permanent per-call rate an amount to reflect the fact that payments are made on a quarterly basis, and thus monthly payments would unjustly enrich the PSPs.

Second, APCC's call volume data are based on data for a sample of only 4,000 payphones, and a non-random sample at that. There is no reason to believe the 151 call per month average shown by APCC's data has any statistical validity. Third, the Court has already reversed the Commission for confining compensation only to those carriers generating more than \$100 million in toll revenues. The Commission would be inviting reversible error – even if it only acts on an interim basis – if it were again to attempt to confine payment obligations only to larger carriers. The fact that APCC include LECs in the payment obligation only partially cures this fatal defect.

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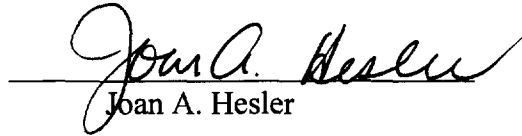
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CERTIFICATE OF SERVICE

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